

Interview of Herbert SANGER by TVA's OIG

In testimony before the Commission on March 11, 1986 (Exhibit 2, pp. 98-99), SANGER responded to a question from Commissioner ROBERTS regarding the legality of TVA's employment of WHITE and his senior advisors by stating "We have looked at this very carefully of course, and what we are doing here is contracting for work, and we have expressed authority under Section 9(b) of the TVA Act to do that. WHILE this is an unprecedented kind of thing in terms of placing people in line management positions, TVA has always had these kind of contracts. I do not have any doubt about their legality, and I have so assured the Board and did so before we entered into this arrangement."

In testimony given to the TVA OIG on June 26, 1986 (Exhibit 76), regarding the legality of the contract of employment by TVA for WHITE, SANGER stated that from almost the initiation of the contract, problems had arisen. SANGER indicated in his testimony that he was briefed about the contract problems by MASON and agreed with MASON that the legality of the contracts was questionable. According to SANGER's testimony, he told the TVA Board of Directors that there were possible problems with a conflict of interest in these contracts. He indicated however, with the exception of FREEMAN, the Board of Directors basically disagreed with him. SANGER related that after discussing the problem at length with the Board of Directors and not reaching an agreement, he felt obligated to refer the matter to the Office of Government Ethics for resolution. SANGER testified that in addition, the matter was also referred to the TVA's OIG for investigation. When asked why he never made any public statements regarding the problems with WHITE's contractual arrangements, SANGER claimed that he had a client/lawyer relationship with the TVA Board of Directors and that such a relationship puts him in a bad position when responding to questions about such issues.

Interview of Steven WHITE, TVA Manager of Nuclear Power

WHITE was interviewed on August 7, 1986, at the Headquarters of TVA ONP, 38 Lookout Place, Chattanooga, Tennessee. WHITE said that it was SANGER's advice to him that TVA appeal the SMITH and GUILTY decisions. SANGER indicated to WHITE that this was what TVA had done in the past, and he (SANGER) could not find out the facts without an investigation. In WHITE's view, SANGER "kind of insisted" that TVA appeal these decisions. WHITE did not recall if the Board of Directors or WILLIS were directly involved in the decisions to appeal these cases but they were certainly aware of the matter. WHITE continued that he "frankly succumbed" to SANGER's legal advice in the beginning that TVA has always appealed these initial DOL decisions (Exhibit 59, pp. 2, 3, 4, 5, 11, & 12).

According to WHITE, SANGER's recommendation to him to appeal the DOL decisions came during several telephone calls in which SANGER was trying to educate WHITE on how TVA handled these complaints. Additionally, SANGER indicated to WHITE that he doubted the correctness of DOL's initial decisions and gave the impression that he felt that the personalities of the complainants were such that this would aid TVA during the appeals process (Exhibit 59, pp. 18 & 29).

WHITE testified that SANGER never indicated to him that OGC had done some investigation of the SMITH and GUILTY cases. Further, WHITE was definitely not aware of any attempt to settle the SMITH complaint, and he said that he had

never seen the proposed settlement (Exhibit 35). WHITE said that he had never seen the OGC analysis of the SMITH complaint (Exhibit 36) which recommended that TVA should settle the case. WHITE continued that the whole thrust of the advice from SANGER was contrary to the recommendation section of this analysis. WHITE conceded that BERNABEI was correct in that part of her letter concerning the fact that TVA had done some investigation of the SMITH and GUILTY complaints (Exhibit 59, pp. 4, 5, 6, 8, 9, 10, & 50).

WHITE related that he had wanted ZIGROSSI to investigate these DOL cases, but he recalled a meeting during which SANGER objected "very strenuously" to ZIGROSSI initiating investigations. SANGER felt very strongly that ZIGROSSI should stay out of these cases until OGC was finished. After a heated discussion, ZIGROSSI eventually agreed not to investigate until SANGER was finished. WHITE was not happy with this decision but it seemed to him that that was the way TVA had always done it. WHITE could not remember the date of this meeting but said that it involved ZIGROSSI, SANGER, WILLIS, WATERS, DEAN, and WHITE. According to WHITE, ZIGROSSI was very calm during this discussion, but SANGER was a little bit angry and kind of nervous. There was no question in WHITE's mind that ZIGROSSI eventually agreed not to investigate due to SANGER's request. WHITE said, however, that at the time of the March 11 meeting, he was still under the impression that ZIGROSSI was actively investigating these complaints. Since WHITE could not get OGC to investigate, he had a number of meetings with the DOL investigators (Exhibit 59, pp. 12, 13, 15, 16, 25, 27, & 29).

WHITE related that COTTLE may have had one meeting with the DOL representatives, but after that, WHITE personally took over the conciliation process. WHITE said that, "Sometime very early in the game," SANGER told WHITE that the DOL investigators had made up their minds on these cases before doing the investigation. WHITE remembered that SANGER also discussed this issue with CUNNINGHAM and SANGER informed WHITE that he had also told ASSELSTINE about the matter and that there might be an investigation of DOL investigator SEELEY. WHITE stated that SANGER painted a "dark picture of her." After meeting with her, WHITE found SEELEY to be quite different from what SANGER led him to expect. SANGER also gave WHITE the impression that TVA's case was stronger because they might be able to show that DOL was not being objective about the investigations. SANGER mentioned this issue several times to WHITE even after WHITE had met with MERCHANT and SEELEY. After a short period of time, however, WHITE discarded what SANGER was telling him, and WHITE did not think that the DOL investigators had a biased opinion (Exhibit 59, pp. 19-22).

In their meetings, the DOL investigators showed WHITE several papers they had written indicating to whom they had been talking. The DOL investigators convinced WHITE that WASHER and SAUER had been treated less than fairly. According to WHITE, the DOL investigators "painted a picture for me that indicated that the system really, if you spoke out,... and thought you were right, people might remember that when promotion time came along." When WHITE asked the DOL investigators who was responsible, the DOL investigators told him, "the system is too smart" and "you will never find a smoking gun." WHITE added that so far TVA had not been able to find "a smoking gun" (Exhibit 59, pp. 22-24).

WHITE said that after he had worked out a settlement in the WASHER complaint (Exhibit 20), SANGER was "very, very upset with me" because he made it clear

that it was OGC's function to settle claims and that it was not the responsibility of line management. WHITE said that he was not certain whether he received this information specifically from SANGER, but a number of people advised him that if he conciliated the DOL cases, there would be a lot more claims filed. He was also advised by someone that if he settled these cases, he would alienate a lot of people. After resolving the WASHER case, WHITE said that he received anonymous hate mail and hate calls from people within TVA who still thought that TVA had been wrong to settle the DeFORD matter (Exhibit 59, pp. 30, 39, 43, 45, & 46).

WHITE said that BERNABEI was "absolutely wrong" that he had not tried to contact the DOL complainants. WHITE said that BERNABEI had objected to WHITE's meeting with the DOL complainants without her being present. SANGER insisted that if BERNABEI was going to be present at any such meeting, he would also be there. WHITE said that during one of his plant tours, he did speak briefly with GUILTY and SAUER and that when SANGER learned of this, "he became unglued." WHITE said that from that point on, "until he got smarter," WHITE did not attempt to talk to the complainants. WHITE said that eventually BERNABEI agreed to allow him to meet with the complainants without her being present. WHITE explained that he was reluctant to speak with the complainants with a TVA lawyer present, because the lawyer himself could have been a member of "the old boy network" (Exhibit 59, pp. 33, 34, 35, 36, 37, & 49).

WHITE said that he felt he had been "sandbagged" at the March 11, 1986, Commission meeting when SANGER said that it had been line management's decision to appeal the SMITH and GUILTY cases and not the lawyer's judgment. WHITE said that he did not object to this statement during the Commission meeting because he was "a little bit surprised, angered." WHITE said that he guessed that he could have stood up and objected but "it just didn't seem appropriate to say, 'wait a minute.' and besides I felt I had been sandbagged." WHITE continued that the issue of possible predisposition on the part of the DOL investigators was a very strong point on several occasions, but WHITE is not certain whether or not this issue came up before or after the March 11, 1986, Commission meeting (Exhibit 59, pp. 37, 38, 52, & 53).

Re-interview of TVA Inspector General

ZIGROSSI was re-interviewed at TVA Headquarters, Knoxville, Tennessee, on August 26, 1986. On August 28, 1986, ZIGROSSI executed a sworn statement (Exhibit 64) based upon the information which he provided on August 26, 1986. In his statement, ZIGROSSI related the following:

After the July 1, 1986 interview, I decided to verify the specific date of a meeting I had with the TVA Board of Directors, TVA General Counsel Herbert S. Sanger, and others. After checking my desk calendar, which is normally maintained by my secretary, Joyce Barnes, I concluded the date of this meeting was March 17, 1986, and that the meeting was attended by Board members Dean and Waters, W. F. Willis, Herbert S. Sanger, Steven A. White, and myself. It was during this meeting that Sanger and I engaged in a lengthy discussion about the Department of Labor (DOL) whistleblower cases on which DOL had just rendered an opinion. Sanger commented that TVA intended to proceed by appealing the ruling handed down by DOL in order to develop factual data not available to TVA through other sources. He related during the meeting that an appeal would be the

best way for TVA to proceed in order to determine specific facts in possession of DOL investigators.

The discussion between Sanger and me focused on the IG's role in investigating DOL whistleblower cases. It was my belief that, even though TVA was appealing DOL's ruling, the IG would play an investigative role to support that appeal. However, Sanger made it very clear during the meeting he did not need the IG to assist him in any way, including conducting an investigation relating to the whistleblower cases. Sanger stated his OGC attorneys would handle the investigation during the appeal process, and they, not the IG, would gather whatever information OGC needed through discovery. He also stated he did not want the IG investigators to assist him in any way.

Sanger stated he thought it would be best if the IG's office did not get involved in these cases until after the appeal process had been completed. He made it very clear that he did not want the IG in any way to be involved in the appeal process, and that it would be best if the IG did not conduct an investigation during the appeal.

Also during this meeting, we discussed the discovery process which would occur during the appeal. Sanger advised that the information obtained through discovery would be used by him and his attorneys, and this information would not be made available to the IG's office by OGC. It was very clear to me during this meeting that Sanger was going to proceed with the appeal process, and that during this period the IG would not play any role in the process and should not be involved in any investigative activity since it was Sanger's view such activities might jeopardize TVA's appeals. I was concerned that the IG's office was not involved; however, I fully realized that the IG should not institute a separate investigation during those proceedings. I did not in any way want to jeopardize TVA's litigation. All present in the room witnessed my discussion with Sanger, and everyone appeared to understand that Sanger and I were "going at each other" because the discussion was rather heated at times.

After presenting my position, I concluded the IG should not conduct an investigation because I felt strongly, after hearing Sanger's remarks, that the IG should not interfere with TVA's appeal process. I wanted to ensure that I would not be accused of adversely influencing TVA's efforts in its appeal. After my discussion with Sanger, there was no doubt in my mind that Sanger was going ahead with the appeals regardless of my opinion or the IG's efforts. I expressed to those present that I did not plan to conduct an investigation, and that if an investigation was warranted in the future, I should be so advised by the Board. I do not recall any followup discussion regarding this matter with Sanger or anyone else from his office.

I was somewhat discouraged by Sanger's position the IG should not investigate the matters raised in the DOL appeals. In spite of the IG's limited resources, I wanted to conduct an investigation, thereby showing TVA what the IG's office could do. It was my intent to solicit the cooperation of the complainants and to investigate the complaints to determine if TVA management acted improperly in these instances. It is

my belief the complainants would have cooperated with the IG. However, the only investigative effort on the part of the IG's office was to review material obtained from the OGC regarding their investigation into the whistleblower cases and to contact the whistleblowers' attorney in Washington, D.C.

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During my August 26, 1986, interview, I read a copy of a March 14, 1986, memorandum from Sanger to me. I do not recall seeing this memorandum previously; however, OIG records indicate it was received by OIG on March 14, 1986, although we cannot locate the document at the present time. After reading this memorandum in the presence of the NRC investigators, its purpose remains unclear to me. However there is no doubt in my mind on March 17, 1986, that Sanger did not want the OIG to investigate these complaints until the appeals had been completed. I am sure that others in attendance at the March 17, 1986, meeting will be able to confirm this fact.

During the same August 26, 1986, meeting I read what Sanger told NRC investigators about never asking the OIG not to investigate these complaints and not refusing to grant the OIG access to information developed during the appeal process. I do not recall whether Sanger ever asked OIG "not to investigate" these complaints. However, I do recall his position was very clear on one point; namely, that he did not want me to investigate these matters while the DOL appeal process was pending. Sanger's comment that he never stated he would deny my access to discovery materials is erroneous since during the March 17, 1986 meeting, he discussed at length his position that OIG had no right to this material and that no such material would be provided to the OIG.

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On August 26, 1986, Joyce H. BARNES was interviewed (Exhibit 52). At ZIGROSSI's direction and at the request of the OI Investigators, BARNES furnished photocopies of ZIGROSSI's desk calendar for February 24 and March 17, 1986. BARNES said that the entries for each date which indicated ZIGROSSI's attendance at a meeting were in her handwriting and would have been made prior to the holding of the meeting. BARNES had no specific recollection regarding these entries but said that in accordance with her standard practice, the entries would have been made within the week prior to the date of the meeting.

R. Interviews of TVA Board of Directors and General Manager

On August 27, 1986, WILLIS was re-interviewed (Exhibit 63). WILLIS was asked to describe what transpired during a meeting on March 17, 1986, which was attended by DEAN, WATERS, WHITE, SANGER, ZIGROSSI, and himself. WILLIS stated that the meeting was held to discuss what steps TVA was going to take to resolve DOL complaints. WILLIS related that one issue discussed was whether ZIGROSSI should initiate an investigation into the DOL complaints or allow SANGER to continue with his investigation. He said that he had been told by SANGER that OGC had not investigated the complaints in depth and that SANGER's recommendation was to await the results of the DOL investigation. WILLIS

indicated that SANGER related that OGC had made some initial attempts to gather the information related to the DOL complaints but that the complainants would not talk to OGC. WILLIS stated that WHITE wanted TVA to settle the cases as quickly as possible and at this point in time ZIGROSSI was not involved in the matter.

WILLIS indicated that there was some discussion among the attendees regarding the possibility of approaching BERNABEI and attempt to settle the cases with the limited information that was available. WILLIS stated that although they did not know if the complainants had good cases or not, most of the attendees at the meeting thought it would be best to get these cases out of the way. WILLIS related that SANGER said the only way to determine the merits of these cases was either get the complainants to work with TVA or appeal the decisions. WILLIS said that SANGER told the group that he had the DOL report but that it did not contain enough information to determine if the complaints were valid. WILLIS related that SANGER pointed out that if TVA appealed the DOL findings, OGC would be able to take depositions from the complainants and possibly develop enough information to settle the cases. WILLIS indicated that this discussion resulted in the decision being made to appeal the DOL findings. WILLIS stated that at this point ZIGROSSI asked SANGER if OGC would share with him the information developed from the depositions taken from the complainants. According to WILLIS, SANGER told ZIGROSSI that while OGC was involved in the litigation process and taking depositions, OGC would not give any of this information to ZIGROSSI. He said that SANGER told ZIGROSSI that he was acting in the best interest of TVA and if the Board of Directors decides to settle the cases or if OGC identifies culpability on someone's part, then the information could be turned over to OIG. WILLIS said that SANGER never told ZIGROSSI that he could not investigate the matter but a sore point seemed to develop over the release of information from the depositions to OIG.

WILLIS stated that once the cases were settled TVA would have to take a hard look at the cases to determine if any type of action must be taken against managers involved in intimidation and harassment. WILLIS indicated that TVA was not going to stop merely because they settled the cases. He said that if TVA personnel were doing things wrong, the matter had to be looked into and the appropriate action taken. WILLIS added that this is TVA's current policy on these types of issues.

WILLIS was asked if SANGER and ZIGROSSI had a heated argument over the handling of the information contained in the depositions. He related that he would characterize their discussion as a disagreement over the handling of this information. He stated that ZIGROSSI told SANGER that he (ZIGROSSI) had the right to the information so he could act on it. WILLIS related that SANGER was very adamant about the issue. According to WILLIS, SANGER told ZIGROSSI that you will get the information when OGC is done with it, after the appeal process and the information is presented to the Board of Directors. WILLIS said that SANGER also made a comment to the effect that OGC knew how to handle the issue and that his lawyers would get the job done.

WILLIS was asked if SANGER told ZIGROSSI not to investigate the cases. He replied that he never heard SANGER state this but did say to ZIGROSSI that OIG could investigate whatever it wanted to but that OIG should keep out of the litigation process. WILLIS said that there was no doubt about SANGER's

feelings on this issue and his comments to ZIGROSSI were sharply worded. WILLIS stated that SANGER also told ZIGROSSI that he would not allow anyone from OIG to sit in while the depositions were taken. WILLIS said that he did not view this as a knock down, drag out disagreement but just a very frank discussion.

WILLIS related that once the decision on the appeals had been agreed upon, ZIGROSSI just kind of let the subject alone. WILLIS said that he has had several discussions with ZIGROSSI on this matter since then and that ZIGROSSI stated that he did not think it was good for TVA to let the cases drag out. He indicated that ZIGROSSI wanted to get the cases settled and out of the way.

WILLIS was questioned about the testimony of WHITE before the NRC Commissioners on March 11, 1986, when WHITE told the Commissioners that ZIGROSSI was investigating these cases. WILLIS stated that as he recalled the circumstances at the time, ZIGROSSI had pulled all of the documents related to the DOL complaints and had done some review of the cases. He said that he recalls ZIGROSSI telling him that he had talked with a couple of the complainants and that it appeared that they were willing to cooperate. WILLIS stated that as he recalls, ZIGROSSI later told him about some problem he had with the complainants' attorney. WILLIS could not recall exactly what the problem was.

WILLIS recalled a conversation with WHITE, SANGER, ZIGROSSI, and himself during which WHITE was asked what he wanted to do with the DOL complaints. WILLIS stated that the only case that had been ruled upon by DOL was the SMITH case. He indicated that the Board of Directors, SANGER and himself were fairly familiar with SMITH's case and they did not feel TVA was wrong in this case. WILLIS related that WHITE told them that the complaint was filed before his arrival on the job and he just wanted to see the problem resolved.

WILLIS stated that it was finally decided that TVA would wait until DOL ruled on the SMITH case before they decided what to do. WILLIS stated that the resolution of the DOL cases was the subject of many conversations before both the NPC hearings and TVA's appearance before the Dingell congressional committee. WILLIS said some individuals felt that if TVA settled these cases before the hearings, TVA might benefit from the settlements. WILLIS related that this was not necessarily the same situation before TVA's appearance before the Dingell committee. He indicated that the four complainants were going to appear before the Dingell committee whether or not TVA settled their cases.

WILLIS said that TVA managers must be educated in the way you handle an employee with a complaint. He concluded by stating that TVA is currently involved in a management training program which he hopes will settle some of these issues before they become problems.

On August 28, 1986, WATERS was re-interviewed (Exhibit 66) at TVA Headquarters, Knoxville, Tennessee. When questioned about the March 17, 1986, meeting (Exhibit 65) attended by DEAN, WATERS, ZIGROSSI, SANGER, WHITE, and WILLIS, WATERS said that he was unable to recall what specifically SANGER said at this meeting. He remembered SANGER saying something to the effect that TVA had no basis to settle the DOL complaints and did not know what wrongdoing had occurred. WATERS also remembered SANGER saying during some meeting that he

was not willing to share information with ZIGROSSI which was developed during the discovery process. SANGER said something, to the effect, that "all litigation would be handled in the lawyers' offices and OGC might want to do some further investigation." WATERS did remember some dispute between SANGER and ZIGROSSI as to what OIG's role would be when a matter came into litigation. WATERS was unable to say what particular points were in dispute or whether this discussion occurred at the March 17 meeting.

WATERS remembered SANGER did not have any confidence in DOL's initial decisions on the SMITH, SAUER, and GUILTY complaints. WATERS said that SANGER was very frank in discussing this with the Board of Directors. WATERS also remembered that SANGER took the position that whatever information was developed by OGC was their information and he was not willing to share it with ZIGROSSI. WATERS said that this issue was never really resolved between OGC and OIG. WATERS said that some of the lawyers in OGC were jealous of OIG's authority and wanted to retain the investigative authority over the whistleblower cases. WATERS said that he did know that SANGER "really resented" the arrival of the Inspector General and now feels that the TVA Board of Directors "sicked" ZIGROSSI on SANGER. WATERS said that this is not true.

On August 28, 1986, DEAN was re-interviewed (Exhibit 67) at TVA Headquarters, Knoxville, Tennessee. DEAN was questioned regarding his recollection of a discussion between ZIGROSSI and SANGER during a meeting on March 17, 1986. DEAN recalled several items related to the DOL complaints of SMITH, SAUER, WASHER, and GUILTY but could not relate them to any specific meeting. He said that the Board had been told by SANGER that in order to determine whether any of the TVA supervisors were guilty or innocent of intimidation, TVA had to appeal the initial DOL decisions and use the discovery process to find out anything. DEAN again said that the initial DOL decision just said, in effect, "You're guilty" and did not identify any specific harassing individuals.

DEAN said that he had no specific recollection of SANGER telling ZIGROSSI that he would not share with OIG any information developed during the discovery process of the DOL complaints, however, DEAN said it sounded like something SANGER would say. DEAN explained that SANGER always resented ZIGROSSI and never wanted an OIG at TVA in the first place. When asked why, DEAN said that having an OIG at TVA would mean that SANGER would have to give up some of his power, namely his responsibility for conducting investigations. DEAN did recall SANGER saying on one occasion that he would retain authority to conduct investigations in connection with lawsuits and this was really his way of saying that he was not going to rely upon ZIGROSSI. DEAN said that prior to ZIGROSSI's arrival, SANGER had "all these strings on people" and kept little files on everything, there was no way of telling on whom he kept a file. DEAN thought that SANGER always wanted power and more power and this eventually resulted in his undoing.

Third Interview of Herbert SANGER

On September 25, 1986, SANGER was interviewed (Exhibit 68) in an attempt to clarify differences between previous statements made by SANGER and statements made by ZIGROSSI.

INVESTIGATORS' NOTE: At SANGER's request, MASON was present during the interview. Both SANGER and MASON resigned from their positions at TVA on August 19, 1986.

SANGER related that he could not state positively that he attended a meeting on March 17, 1986, with ZIGROSSI, DEAN, WATERS, WHITE, and WILLIS. SANGER indicated that if the reason for the meeting or the results of the meeting dealt with the appeal of the DOL cases, he felt certain that he would have notified MASON because it was one of MASON's responsibilities to investigate DOL complaints for TVA. SANGER pointed out that the previous written records regarding his contact with ZIGROSSI should support him on this issue. He said that he responded to a memorandum from ZIGROSSI, dated March 3, 1986 (Exhibit 43), with a memorandum dated March 14, 1986 (Exhibit 44), in which he clearly explained TVA's policy regarding the investigation of DOL complaints. SANGER indicated that if ZIGROSSI read his memorandum there should have been no doubt about ZIGROSSI's responsibilities.

SANGER was asked if he was the individual pushing for the appeal of the DOL cases. He stated that he was the legal advisor to TVA's Board of Directors and as such did make recommendations on such matters. SANGER related however, that the responsibility for these decisions rested with the Board of Directors. SANGER said DEAN did not view these cases as a serious matter and WATERS was very critical of the whistleblowers. He said that FREEMAN was the only one who felt that the whistleblowers should be given a fair shake. SANGER pointed out that the TVA policy on differing professional opinions was developed by FREEMAN, who encouraged this concept within TVA. According to SANGER, DEAN not only did not support this concept but opposed any form of disciplinary action that was recommended against TVA managers who were identified as the perpetrators of discriminatory action in DOL cases.

SANGER stated that regarding the DOL complaints, WHITE had the responsibility for contact between TVA and the DOL built into his contractual agreement with TVA. SANGER reiterated that in late February 1986, it was decided that WHITE had the responsibility for deciding how the DOL cases would be handled and obviously took an active role in the decision to appeal these cases.

SANGER stated that although ZIGROSSI had little to say about the appeal of these cases, he was led to believe by ZIGROSSI that the investigation of these cases was his first priority. SANGER admitted that MASON and his staff had done some work on the investigation of the DOL complaints of SMITH and GUILTY, but claimed that not all the work had been completed when these two cases were turned over to OIG.

SANGER was queried about a heated discussion he had with ZIGROSSI over the release of information obtained by OGC during the appeal process to OIG. SANGER stated that he did not recall such a discussion and did not think it could have occurred. SANGER related that ZIGROSSI would never argue about anything and although he always played to the power, he doubted that ZIGROSSI would ever confront him on such a topic as the DOL complaints. He said that no one in TVA was trying to control the activities of ZIGROSSI in any manner.

Willfulness/Intent Section

During the course of the OI investigation, the following information was developed concerning whether WHITE and/or SANGER intentionally misled the NRC concerning TVA's handling of the ERA complaints of SMITH, SAUER, WASHER, and GUILTY:

1. At the March 11, 1986, Commission meeting, WHITE said that he immediately asked his management for their "side of what happened" concerning the SMITH, SAUER, WASHER, and GUILTY complaints and "before even receiving that, turned those over to the Inspector General" and asked him to "put those at the top of your list and start investigating beneath the facts." WHITE responded to ASSELSTINE that ZIGROSSI was doing "those investigations right now." WHITE assured the Commissioners that he intended to get to the truth of the DOL complaints. In response to the question of why TVA could not settle the complaints and conduct its own wrongdoing investigations instead of appealing the initial DOL decisions, WHITE stated that ZIGROSSI had "only recently come aboard" and that he was now investigating the cases (Exhibit 2, pp. 53-57).
2. At the March 11, 1986, Commission meeting, SANGER stated that the decision to appeal the GUILTY, SMITH, and SAUER DOL cases was discussed with the TVA Board of Directors and TVA management but that "it is always a management judgment as to whether an appeal or, a hearing is taken. It is not the lawyer's judgment." In response to several questions regarding why it was necessary for TVA to appeal these decisions, SANGER said it had been TVA's practice for OGC to conduct an investigation of a DOL claim in parallel with DOL. He continued, however, since the three complainants would not talk with the OGC investigators, TVA did not have the same capability of investigating as it had in the previous DOL case. SANGER continued that with these cases, TVA did not know what the evidence was and the DOL decisions were "merely conclusory." Therefore, "...It was the Board's and Steve [WHITE] and my discussion, that if we ask for hearings, we could use that as a way to fully determine what TVA employees were involved in it, and what actually occurred, so that we can act on it. That was the reason for that" (Exhibit 2, pp. 52, 53, & 73-76).
3. The individuals present when it was decided to appeal the initial DOL decisions indicate that it was SANGER who urged the Board of Directors to appeal. All agreed that SANGER said that appealing the initial decisions was the only method for TVA to develop the necessary information regarding the complaints (Exhibits 40, 57, 59, 61, 65, & 67). OGC did not have any confidence in DOL's investigations of the SMITH and GUILTY complaints, and SANGER was "very frank" in discussing this with the Board of Directors (Exhibits 34, 39, 50, 63, & 66).
4. At MASON's direction, GUTEKUNST prepared an outline of the SMITH DOL complaint based upon OGC's investigation. This analysis concluded with the recommendation that TVA should attempt to settle the SMITH complaint (Exhibit 36). GUTEKUNST said that OGC recognized that there could have been some retribution against the complainants (Exhibit 12). MASON said that it would have been possible to settle the SMITH case and for OGC to continue the wrongdoing aspects of the investigation, but he continued,

"We could have settled Smith, but how many clones would there have been" (Exhibit 39). WATERS also thought that the complainants may have been treated very unfairly and that TVA could not tolerate intimidation and harassment but could not allow every disgruntled employee to turn around management decisions by going to DOL (Exhibit 50). Additionally, WILLIS mentioned that the Board of Directors did not want other TVA employees to think that TVA was going to accept DOL complaints at face value and take action without investigating the matters thoroughly (Exhibit 57).

5. From WHITE's and SANGER's testimony at the March 11 meeting, it was ASSELSTINE's clear impression that TVA's only reason to appeal the initial DOL decisions was to obtain the information necessary to determine who had performed the discriminatory acts. From telephone conversations with WHITE within several weeks of the March 11 meeting, ASSELSTINE gathered that there were two additional factors for TVA's decision to appeal these cases. The two additional reasons being the possible predisposition to find against TVA by the DOL investigators and TVA's unwillingness to accept broad judgments from DOL (Exhibit 21). Within two or three days of the March 11 meeting, SANGER told CUNNINGHAM that the DOL investigators were predisposed to find against TVA regarding these complaints. CUNNINGHAM recalled SANGER saying something to the effect that he did not mention this at the March 11 hearing because TVA was a Federal agency and had to get along with DOL (Exhibit 22). STELLO recalled WHITE telling him in a passing remark that he had been unaware of the DOL predisposition issue until after the March 11, 1986, Commission meeting (Exhibit 25). The issue of possible DOL predisposition was discussed among OGC personnel, the TVA General Manager, the TVA Board of Directors, and ONP personnel (Exhibits 32, 34, 39, 48, 50, 52, 56, & 57).
6. ASSELSTINE clearly did not get the impression from the March 11 meeting or subsequent discussions that TVA had done much, if any, investigation of the SMITH, GUILTY, WASHER, or SAUER DOL complaints (Exhibit 21). STELLO was unaware that TVA had conducted any formal investigations of these complaints and said that not only would he be surprised if they had investigated these complaints, but he would feel that TVA had been misleading in their testimony at the March 11 meeting (Exhibit 25).
7. The OI review of the OGC investigative file on the SMITH claim indicated that 29 individuals were interviewed by OGC investigators from October 28, 1985, to December 18, 1985. The investigative file on the GUILTY claim indicated that 19 individuals were interviewed by OGC from January 22, 1986, to April 8, 1986. During the OGC GUILTY investigation, 18 individuals were interviewed prior to February 12, 1986 (Exhibit 13). Since SEELEY arranged all of the DOL interviews through OGC, OGC was aware of the TVA employees to whom DOL was speaking (Exhibit 27).
8. GUTEKUNST said that OGC was "pretty near" to the end of the SMITH investigation and that there may have been one or two more people to be interviewed. GUTEKUNST's recollection was that there may have been two or three "other major players" to be interviewed on the GUILTY DOL complaint (Exhibit 34). MASON stated that because these cases were so sensitive, he was notified of any significant information developed during the investigation. MASON added that he would make sure that

SANGER was aware of the results of any significant interviews in these cases. MASON said that these investigations were never completed and that no final report was prepared for either the SMITH or GUILTY investigation (Exhibit 14).

9. In his letter of May 12, 1986 (Exhibit 4), SANGER acknowledged that OGC had begun investigation of the DOL complaints of SMITH and GUILTY but added that the investigations could not be completed since the complainants would not talk with TVA.
10. The four DOL complainants met with ZIGROSSI on several occasions, and all of them indicated that they would have been willing to cooperate in any OIG investigation of their complaints (Exhibits 28-31).
11. During the initial interview, ZIGROSSI related having met with SMITH, GUILTY, SAUER, and WASHER. All four indicated to him their willingness to talk to him regarding their DOL complaints. ZIGROSSI said that his office could have developed the cases if the complaints had been referred to his office for investigation. ZIGROSSI related that it was SANGER's position that TVA should appeal the initial DOL decisions, and SANGER told ZIGROSSI that OGC would handle these cases and there was no need for OIG to initiate investigations. ZIGROSSI said that he was new to TVA and just assumed that TVA always appealed these DOL decisions. ZIGROSSI also stated that OGC told him that the complainants would not talk with him and that he was wasting his time attempting to contact the complainants. ZIGROSSI related that, at his direction, his office obtained copies of OGC's investigations of SMITH and GUILTY, but reiterated that he was never told that these cases were his responsibility and said that anyone making such a statement is "full of bull." ZIGROSSI emphasized that SANGER did not want OIG to get involved in these cases and was told by him that the OGC attorneys would handle the investigations by taking depositions and that OGC would not share with OIG any information developed during this discovery process. When asked about WHITE's testimony before the NRC, ZIGROSSI responded that there was a period of time when WHITE believed that OIG was investigating these cases, and ZIGROSSI thought that this is what WHITE really wanted. ZIGROSSI said that if it had been decided between WHITE and SANGER that OIG would investigate these cases, then he would have done so (Exhibit 40).
12. When re-interviewed by OI, ZIGROSSI recalled that it was during the March 17, 1986, meeting that SANGER and he engaged in a lengthy discussion about the DOL cases. Also attending this meeting were DEAN, WATERS, WILLIS, and WHITE. ZIGROSSI related that during this meeting, SANGER made it very clear that he did not want OIG to assist OGC in any way and that he thought it best that OIG not conduct an investigation during the pendency of the appeals. According to ZIGROSSI, it was SANGER's view that any investigative activity by OIG might jeopardize the success of TVA's appeal. ZIGROSSI said that his discussion with SANGER was rather heated at times, and SANGER discussed at length his position that OGC would not provide any information to OIG developed during the discovery process. ZIGROSSI acknowledged that OIG had received a copy of a March 14, 1986, memorandum (Exhibit 44) from SANGER which stated that OGC's policy had been to investigate DOL complaints ahead of or during the DOL investigation. ZIGROSSI said that he did not recall having

previously seen this memorandum and, after reading it, the purpose of the memorandum was unclear to him. ZIGROSSI concluded that it was very clear to him that during the March 17, 1986, meeting, SANGER did not want OIG to investigate the DOL complaints until after the appeals had been completed, and ZIGROSSI was certain that the others who attended this meeting would confirm this fact (Exhibit 64).

13. MASON and GUTEKUNST, who did not attend the March 17 meeting, did not know of anyone from OGC who would have requested ZIGROSSI to delay or not to investigate the DOL complaints (Exhibits 34 & 39). OIG staff members had no knowledge of anyone requesting ZIGROSSI to delay or not to investigate the DOL complaints, but LENNON was aware of some friction between OGC and OIG, and MATTHEWS related that once OGC decided to appeal these cases, OIG was forced to sit back and wait until the appeal process was completed (Exhibits 54, 55, & 60).
14. WILLIS recalled SANGER telling ZIGROSSI that it would be just fine if he wanted to talk with the complainants, however, any information developed by OGC would not be turned over to OIG until after the appeal process was completed. When re-interviewed and specifically asked about the March 17, 1986, meeting, WILLIS recalled a sharply worded discussion between ZIGROSSI and SANGER. WILLIS did not recall SANGER specifically telling ZIGROSSI that he could not investigate these complaints but SANGER made a comment to the effect that OGC knew how to handle these issues and that his lawyers would get the job done. WILLIS also remembered SANGER stating that OGC would not share any information developed during the discovery process with OIG until the litigation process was completed, and SANGER telling ZIGROSSI that OIG should keep out of the litigation process.
15. When first interviewed by OI, DEAN did not recall any jurisdictional problems between OGC and OIG over the DOL complaints, but did remember something to the effect that SANGER wanted to reserve the right to do some investigations if it was necessary in connection with the lawsuit OGC was working on. When re-interviewed by OI, DEAN said that he had no specific recollection of SANGER telling ZIGROSSI that he would not share with OIG any information developed during the discovery process of the DOL complaints, however, DEAN said that it sounded like something SANGER would say. DEAN explained that SANGER always resented ZIGROSSI and never wanted an OIG at TVA in the first place. DEAN also recalled SANGER saying on one occasion that he would retain authority to conduct investigations in connection with lawsuits and this was really his way of saying that he was not going to rely upon ZIGROSSI (Exhibits 56 & 67).
16. When first interviewed by OI, WATERS also said that he did not recall any jurisdictional problems between OGC and OIG. When re-interviewed, WATERS did remember some dispute between SANGER and ZIGROSSI as to what OIG's role would be when a matter came into litigation. According to WATERS, SANGER said something to the effect that all litigation would be handled in the lawyers offices and OGC might want to do some further investigation. SANGER also took the position that whatever information was developed during the discovery process belonged to OGC, and he was not willing to share such information with OIG. WATERS added that some of

investigative authority over the whistleblower cases (Exhibits 50 & 66).

17. WHITE said that it was SANGER's advice to him that TVA appeal the SMITH and GUILTY decisions. SANGER indicated to WHITE that this is what TVA had done in the past, and SANGER "kind of insisted" that TVA appeal these decisions. WHITE said that he "frankly succumbed" to SANGER's legal advice in the beginning that TVA had always appealed these initial DOL decisions. Additionally, SANGER indicated to WHITE that he doubted the correctness of DOL's initial decisions and gave the impression that he felt that the personalities of the complainants were such that this would aid TVA during the appeals process. WHITE said that he felt he had been "sandbagged" at the March 11, 1986, Commission meeting when SANGER said that it had been line management's decision to appeal the SMITH and GUILTY cases and not the lawyers' judgments (Exhibit 59).
18. At some early point in the consideration of the DOL decisions, SANGER told WHITE that DOL investigators had made up their minds on these cases before doing the investigations. SANGER painted a very dark picture of SEELEY to WHITE which WHITE found to be incorrect after meeting her. SANGER also gave WHITE the impression that TVA's case was stronger because they might be able to show that DOL was not being objective about the investigation (Exhibit 59).
19. WHITE related that he had wanted ZIGROSSI to investigate these DOL cases, but he recalled a meeting during which SANGER objected "very strenuously" to ZIGROSSI initiating any investigations. SANGER felt very strongly that ZIGROSSI should stay out of these cases until OGC was finished. This meeting involved ZIGROSSI, SANGER, WILLIS, WATERS, DEAN, and WHITE. WHITE said that at the time of the March 11 meeting, he was still under the impression that ZIGROSSI was actively investigating these complaints. There was no question in WHITE's mind, however, that ZIGROSSI eventually agreed not to investigate these complaints due to SANGER's request (Exhibit 59).
20. SANGER said that neither he nor, to his knowledge, any member of his staff ever requested or directed ZIGROSSI not to investigate the DOL complaints of SMITH and GUILTY. SANGER also denied that anyone from OGC told OIG that OGC was not willing to share information with OIG which was developed during the discovery process. When interviewed by OI on a third occasion regarding this subject, SANGER continued to deny any such discussion with ZIGROSSI and pointed out that his position was supported by his memorandum (Exhibit 44), dated March 14, 1986 (Exhibits 49, 58, & 68).
21. SANGER said that he could not recall that there was any specific individual who was urging that TVA should seek hearings on the SMITH and GUILTY complaints, and he said that he did not know that OGC had any specific recommendations. SANGER said that OGC as well as other offices can make its views known as to whether a particular matter should be appealed, but ultimately the Board of Directors makes the final decision. SANGER acknowledged that TVA could have settled the SMITH and GUILTY claims, and then have continued to conduct the wrongdoing aspect of the complaints. During the third OI interview, when specifically asked

whether he was the individual who was recommending that TVA appeal these decisions, SANGER said that he was the legal advisor to TVA's Board of Directors and as such did make recommendations on such matters. He continued that DEAN did not view these cases as serious matters and WATERS was very critical of the whistleblowers. He said that FREEMAN was the only Director who felt that the whistleblowers should be given "a fair shake." SANGER continued that in late February 1986, it was decided that WHITE would have the responsibility of deciding how DOL cases would be handled, and he took an active role in the decision to appeal these cases (Exhibits 58 & 68).

22. SANGER acknowledged that OGC had done some investigation of the SMITH and GUILTY claims, but he said that he was not trying to mislead the NRC at the March 11, 1986, meeting when he did not mention this fact (Exhibits 58 & 68).
23. SANGER recalled some members of his staff mentioning to him the possible prejudice on the part of the DOL investigators, and he acknowledged that this was another consideration in TVA's decision to appeal the initial DOL findings. SANGER said that he does not know why he did not bring up the DOL predisposition issue at the March 11 meeting. He continued that he has always been reluctant to be critical of some other Federal agency, and he guessed that he was reluctant to bring up the subject in a public meeting (Exhibit 58).
24. SANGER told the Commission that he did not have any doubt about the legality of TVA's employment contract with WHITE and had so assured the TVA Board of Directors (Exhibit 2, pp. 98-99).
25. MASON told TVA's OIG that there were problems with the legality of TVA's contract with WHITE almost from its initiation. MASON stated that he briefed SANGER on this and that SANGER told the Commission was not incorrect but maybe incomplete. He claimed that attorney/client privilege prevented SANGER from raising the problems with WHITE's contract publicly (Exhibit 74).
26. SANGER admitted that he agreed with MASON that almost from its initiation there were problems with TVA's contract with WHITE. He said he informed the TVA Board of Directors of his views but with the exception of FREEMAN, they disagreed with him. SANGER said that this resulted in his referral of the matter to the Office of Government Ethics for resolution. In addition, SANGER indicated that the matter was investigated by TVA's OIG. SANGER testified that his attorney client relationship with the TVA Board of Directors made it difficult for him to discuss this issue publicly (Exhibit 76).

INVESTIGATOR'S NOTE: The referral of the matter to the Office of Government Ethics and TVA's OIG occurred well after SANGER's testimony to the Commission on March 11, 1986.

Agents' Conclusions

Based upon the evidence developed during this investigation, we conclude that there is insufficient evidence to find that WHITE intentionally misled the NRC

regarding TVA's handling of DOL complaints of SMITH, SAUER, WASHER, and GUILTY. We further conclude that SANGER intentionally misled the NRC at the March 11, 1986, meeting by failing to mention the OGC investigations of the SMITH and GUILTY complaints, by not mentioning the DOL predisposition issue, and concerning his role in determining TVA's decision to appeal these DOL decisions. In addition, we conclude that SANGER intentionally misled the OI investigators on three occasions during this investigation concerning OGC's willingness to share information developed during the discovery process with OIG and his statements to ZIGROSSI relating to OIG's initiation of investigations of the DOL complaints of SMITH, SAUER, and GUILTY. Finally, we conclude that SANGER intentionally misled the Commission when he stated that he did not have any doubts about the TVA employment contracts of WHITE and his (WHITE's) senior advisors.

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SUPPLEMENTAL INFORMATION

On August 15, 1986, TVA concluded settlement agreements with SAUER, GUTY, and SMITH (Exhibits 71, 72, & 73). On August 13, 1986, GUTEKUNST provided OI with a copy of TVA OGC's policy on "Employee Representation During Office of the General Counsel Investigations" (Exhibits 69 & 70). SANGER and MASON resigned from TVA on August 19, 1986.

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Request for Investigation from Victor STELLO, Jr., to Ben B. Hayes, dated April 28, 1986. (4 pages)
2	Transcript of Commission meeting on March 11, 1986. (166 pages)
3	Letter from Lynne BERNABEI to each NRC Commissioner, dated April 10, 1986. (3 pages)
4	Letter with attachment from Herbert S. SANGER, Jr., to each NRC Commissioner, dated May 12, 1986. (7 pages)
5	Letter from S. A. WHITE to each NRC Commissioner, dated May 13, 1986. (1 page)
6	Letter from Lynne BERNABEI to each NRC Commission, dated June 5, 1986. (4 pages)
7	Interoffice mailing slip from Herbert S. SANGER, Jr., to W. F. WILLIS, dated November 7, 1985. Attached is a letter from the DOL Area Director to Herbert SANGER, dated October 30, 1985, and a letter from Lynne BERNABEI to DOL, dated October 12, 1985. (6 pages)
8	Interoffice mailing slip from Herbert S. SANGER, Jr., to W. F. WILLIS, dated January 7, 1986. Attached is a letter from Lynne BERNABEI to DOL, dated December 13, 1985. (10 pages)
9	Letter from DOL Area Director to Herbert SANGER, dated February 7, 1986. Attached is a letter from Lynne BERNABEI to DOL, dated February 5, 1986. (7 pages)
10	Letter from Lynne BERNABEI to DO., dated February 7, 1986. (8 pages)
11	Letter from Lynne BERNABEI to DOL, dated March 1, 1986. (10 pages)
12	Results of Interview with Richard M. GUTEKUNST on May 20, 1986. (3 pages)
13	Memorandum to Case File regarding review of TVA OGC investigative files on May 20, 1986. (2 pages)
14	Results of Interview with William E. MASON on May 21, 1986. (6 pages)

<u>Exhibit No.</u>	<u>Description</u>
15	Memorandum from William E. MASON to General Counsel's file, dated October 16, 1985. (1 page)
16	Interoffice mailing slip from Herbert S. SANGER, Jr., to W. F. WILLIS, dated March 5, 1986. (1 page)
17	Letter from DOL Area Director to Steven A. WHITE, dated February 28, 1986. (3 pages)
18	Letter from DOL Area Director to Steven A. WHITE, dated March 10, 1986. (2 pages)
19	Letter from DOL Area Director to Steven A. WHITE, dated March 10, 1986. (2 pages)
20	Settlement Agreement between TVA and Phillip R. WASHER, dated April 26, 1986. (4 pages)
21	Results of Interview with James K. ASSELSTINE on June 5, 1986. (2 pages)
22	Results of Interview with Guy H. CUNNINGHAM on June 5, 1986. (2 pages)
23	Memorandum from Guy H. CUNNINGHAM to Victor STELLO, Jr., dated March 17, 1986. (3 pages)
24	Letter from Guy H. CUNNINGHAM to the Inspector General, DOL, dated March 21, 1986. (1 page)
25	Results of Interview with Victor STELLO on June 5, 1986. (3 pages)
26	Results of Interview with Lynne BERNABEI on June 6, 1986. (2 pages)
27	Results of Interview with Sandra SEELEY on June 11, 1986. (2 pages)
28	Results of Interview with Phillip R. WASHER on June 16, 1986. (3 pages)
29	Results of Interview with Jerry SMITH on June 17, 1986. (2 pages)
30	Results of Interview with Mansour GUILTY on June 17, 1986. (6 pages)
31	Results of Interview with Robert SAUER on June 17, 1986. (4 pages)

<u>Exhibit No.</u>	<u>Description</u>
32	Results of Interview with Maureen Helen DUNN on June 18, 1986. (2 pages)
33	Results of Interview with Elisabeth BEEKMAN on June 18, 1986. (2 pages)
34	Results of Interview with Richard M. GUTEKUNST on June 18, 1986. (6 pages)
35	Interoffice mailing slip from Herbert S. SANGER, Jr., to W. F. WILLIS, dated January 9, 1986. Attached is an undated settlement proposal on the DOL complaint of Jerry SMITH. (3 pages)
36	Memorandum from William E. MASON to Edward J. SISKIN, dated January 29, 1986. Attached is an analysis of the DOL complaint of Jerry D. SMITH. (13 pages)
37	Undated, handwritten notes on an interoffice mailing slip. Attached is a letter from Herbert S. SANGER to the DOL Area Director, dated February 5, 1986. (3 pages)
38	Unsigned, handwritten notes, dated February 24, 1986. (1 page)
39	Results of Interview with William MASON on June 19, 1986. (6 pages)
40	Results of Interview with Norman ZIGROSSI on July 1, 1986. (4 pages)
41	Memorandum for the Record concerning review of TVA OGC litigation files on July 1, 1986. (1 pages)
42	Interoffice mailing slip from Herbert S. SANGER, Jr., to Steven A. WHITE, dated February 27, 1986. (1 page)
43	Interoffice mailing slip from Norman A. ZIGROSSI to Herbert S. SANGER, Jr., dated March 3, 1986. (1 page)
44	Memorandum from Herbert S. SANGER, Jr., to N. A. ZIGROSSI, dated March 14, 1986. (1 page)
45	Interoffice mailing slip from Herbert S. SANGER, Jr., to N. A. ZIGROSSI, dated March 24, 1986. (1 page)
46	Interoffice mailing slip from Mr. GUTEKUNST to Mr. Murphy/ Mr. Norton, dated July 1, 1986. (1 page)
47	Memorandum of Meeting with William MASON and Richard GUTEKUNST on July 1, 1986. (2 pages)

<u>Exhibit No.</u>	<u>Description</u>
48	Results of Interview with James E. FOX on July 2, 1986. (3 pages)
49	Results of Interview with Herbert S. SANGER on July 2, 1986. (2 pages)
50	Results of Interview with John B. WATERS, Jr., on July 3, 1986. (3 pages)
51	Results of Interview with William WEGNER on July 9, 1986. (1 page)
52	Results of Interview with William COTTLE on July 9, 1986. (4 pages)
53	Results of Interview with Marilyn TAYLOR on July 9, 1986. (2 pages)
54	Results of Interview with Patrick J. LENNON on July 15, 1986. (2 pages)
55	Results of Interview with Robert G. CARTER on July 15, 1986. (2 pages)
56	Results of Interview with Charles DEAN on July 15, 1986. (3 pages)
57	Results of Interview with William WILLIS on July 17, 1986. (3 pages)
58	Interview of Herbert S. SANGER, Jr., on July 21, 1986. (90 pages)
59	Transcript of interview of Steven A. WHITE on August 7, 1986. (58 pages)
60	Results of Interview with James MATTHEWS on August 28, 1986. (3 pages)
61	Results of Interview with Richard FREEMAN on August 8, 1986. (3 pages)
62	Results of Interview with Joyce H. BARNES on August 26, 1986. (1 page)
63	Results of Interview with William WILLIS on August 27, 1986. (3 pages)
64	Sworn Statement of Norman A. ZIGROSSI, dated August 28, 1986. (3 pages)

<u>Exhibit No.</u>	<u>Description</u>
65	Schedule of TVA Board of Directors for March 17, 1986. (1 page)
66	Results of Interview with John B. WATERS on August 28, 1986. (2 pages)
67	Results of Interview with Charles DEAN on August 28, 1986. (1 pages)
68	Results of Interview with Herbert S. SANGER, Jr., on September 25, 1986. (8 pages)
69	Memorandum for file, dated August 18, 1986, concerning telephonic contact with Richard M. GUTEKUNST. (1 page)
70	TVA OGC policy concerning "Employee Representation During Office of the General Counsel Misconduct Investigations." (2 pages)
71	Settlement agreement between TVA and Jerry D. SMITH, dated August 15, 1986. (3 pages)
72	Settlement agreement between TVA and Mansour GUILTY, dated August 15, 1986. (4 pages)
73	Settlement agreement between TVA and Robert C. SAUER, dated August 15, 1986. (3 pages)
74	Results of Interview with MASON by TVA OIG on June 26-27, 1986 and July 8, 1986.
75	Chronology of Events Regarding TVA's Service Contract Arrangements for its Nuclear Plants for the Period May 1985 to May 1986 (undated).
76	Results of Interview with SANGER by TVA's OIG, on June 26, 1986.
77	Department of Labor Report CO-86-0193, dated March 31, 1986, with attached letters.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
April 28, 1986

Handwritten notes and signatures:
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MEMORANDUM FOR: Victor Stello, Jr.
Executive Director for Operations

FROM: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

SUBJECT: REQUEST FOR INVESTIGATION

The Commission received a letter dated April 10, 1986, from Lynne Bernabei alleging that the Commissioners were misled by Steven White and Herbert Sanger in their presentations during the March 11, 1986 meeting.

Enclosed is a request for an OI investigation of the alleged false statements. While the usual test for OI referral may not be met, I recommend that OI initiate a review of this matter because of the following: (1) the sensitivity of the TVA situation, (2) the representations were made directly to the Commissioners, and (3) this approach is consistent with Commission guidance from the January 7, 1986 meeting discussing OI reviews of TVA issues. As indicated in the enclosure, this investigation should be given high priority.

Signature: Harold R. Denton
Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc: B. Hayes
J. Taylor
J. Olshinski

12-86-015

EXHIBIT 1
PAGE 1 OF 4 PAGE(S)

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Request No. NRR-86-02

(Region-year-No.)

**TO: Ben B. Hayes, Director
Office of Investigations**

**FROM: Victor Stello, Jr.
Executive Director for Operations**

REQUEST FOR INVESTIGATION

Tennessee Valley Authority

Licensee/Vendor/Applicant

TVA Corporate

Facility or Site Location

Harold R. Denton, Director

Office of Nuclear Reactor Regulation

50-327/328

50-390/391

50-438/439

50-259/260/296

Docket No.

Date 4/ /86

A. Request

**What is the matter that is being requested for investigation (be as specific as possible regarding the underlying incident).
An OI investigation is requested to determine if Steve White, TVA Manager of Nuclear Power, and Herbert Sanger, TVA General Counsel, misled the Commission during a March 11, 1986, Commission meeting.**

B. Purpose of Investigation

- 1. What wrongdoing is suspected; explain the basis for this view (be as specific as possible).
On March 11, 1986, Mr. White and Mr. Sanger are alleged to have misled the Commission about TVA's handling and investigation of the charges of harassment and intimidation by four engineers in the Nuclear Safety Review Staff (NSRS). The attached April 10, 1986 letter from L. Bernabei to the Commission provides the basis for this allegation.**

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EXHIBIT 2

PAGE 2 OF 4 PAGE(S)

2-86-00

2. What are the potential regulatory requirements that may have been violated?
Section 186 of the Atomic Energy Act of 1954, as amended, regarding material false statements.

3. If no violation is suspected, what is the specific regulatory concern?

N/A

4. If allegations are involved, is there a view that the allegation occurred? likely occurred , not sure X. If likely, explain the basis for that view.
If correct, the April 10, 1986, letter appears to support the allegation and identifies the facts in dispute. While the usual test for OI referral may not be met, I recommend that OI initiate a review of this matter because of the sensitivity of the TVA situation, the representations were made directly to the Commissioners, and this approach is consistent with Commission guidance following the January 7, 1986 meeting on TVA OI reviews.

C. Requester's Priority

1. Is the priority of the investigation high, normal, or low? HIGH
2. What is the estimated date when the results of the investigation are needed? 60 days
3. What is the basis for the date and the impact of not meeting this date? (For example, is there an immediate safety issue that must be addressed or are the results necessary to resolve any ongoing regulatory issue and if so, what actions are dependent on the outcome of the investigation?)

The integrity of two upper TVA managers is questioned by this allegation. A delay in the listed date may severely impact the restart of the Sequoyah facility.

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2-86-015

EXHIBIT 3

PAGE 3 OF 4 PAGE(S)

D. Contact

1. Staff members: Harold R. Denton
Hugh L. Thompson, Jr.

2. Allegers identification with address and telephone number if not confidential. (Indicate if any confidential sources are involved and who may be contacted for the identifying details.)
Jerry Smith, Mansour Guity, Robert Sauer, Phillip Washer. These individuals may be contacted through Lynne Bernabei of Newman & Owens Associates, 1619 New Hampshire Avenue, NW, Washington, DC 20009
Phone 202/797-5550

E. Other Relevant Information

- 1) Transcript of the Commission briefing presented by TVA on March 11, 1986
2) March 17, 1986, Memorandum For Victor Stello From Guy Cunningham III (See attached)
3) Sanger may be preparing a response to the Bernabei letter according to G. Cunningham.

Signature

cc: OI (B. Hayes) ✓/
EDO (W.J. Dircks)
NRR/NMSS as appropriate (Denton/Davis) ✓/. ✓/
IE (Taylor) ✓/. ✓/
OELD (Cunningham)
Regional Administrator ✓/. ✓/

✓/ If generated by region.
✓/ If generated by IE.
✓/ If generated by NRR/NMSS

72-86-015

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EXHIBIT 4

PAGE 4 OF 4 PAGE(S)

ORIGINAL
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Ex 117

In the matter of:

COMMISSION MEETING

Briefing by TVA on
Status, Plans and
Schedules

(Public Meeting)

Docket No.

Location: Washington, D. C.
Date: Tuesday, March 11, 1986

Pages: 1 - 117

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72-85-015

EXHIBIT 2
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2-850015

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3
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5 BRIEFING BY TVA ON STATUS, PLANS AND SCHEDULES
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7

8 PUBLIC MEETING
9

10 1717 H Street, N.W.

11 Room 1130

12 Washington, D.C.

13 Tuesday, March 11, 1986
14

15 The NRC Commission met in public session at 9:35
16 a.m., pursuant to notice, the Honorable Nunzio J. Palladino,
17 Chairman of the Commission, presiding.

18 COMMISSIONERS PRESENT:

19 Nunzio J. Palladino, Chairman

20 James K. Asselstine, Commissioner

21 Frederick M. Bernthal, Commissioner

22 Thomas M. Roberts, Commissioner

23 Lando W. Zech, Jr., Commissioner
24
25

1 **STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:**

2 **S. Chilk**
3 **H. Plaine**
4 **S. White**
5 **J. Waters**
6 **C. Dean**

7
8 **AUDIENCE SPEAKERS:**

9 **N. Zigrossi**
10 **H. Sanger**
11 **E. Sliger**
12 **H. Abercrombie**

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P R O C E E D I N G S

CHAIRMAN PALLADINO: Good morning, ladies and gentlemen.

This morning TVA will brief the Commission on status of activities presently in progress. The Commission last met with TVA on January 9th, 1986.

My understanding is that TVA intends to discuss the following topics: history and background, organization and people, employee concerns, quality assurance, and the matter of engineering.

The Commission recognizes that TVA has a significant amount of work underway. The Commission also recognizes that it wasn't until January this year the significant management changes at TVA were approved and implemented.

When today's meeting was originally scheduled, it was believed that the update of Volume I of the TVA Corporate Plan would have been available. However, the plan has not yet been received. Nevertheless, the Commission feels that today's meeting is valuable, and that a follow-up meeting next Monday may be necessary, given that TVA will finalize its corporate plan within the next day or so.

I understand that TVA would like to discuss the need for the next meeting next Monday. Therefore, at the end of today's meeting, I intend to discuss with my fellow Commissioners if a follow-up meeting should be scheduled for

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1 March 17th.

2 I understand that members from Regions II and V and
3 the Sequoyah resident inspector are listening in on the
4 telephone.

5 Let me ask if my fellow Commissioners have any
6 additional remarks.

7 COMMISSIONER ZECH: No.

8 CHAIRMAN PALLADINO: All right. Then I will turn
9 the meeting over to Charles Dean, Chairman of the TVA Board of
10 Directors.

11 MR. DEAN: Good morning, Mr. Chairman and members of
12 the Commission. I am Charles Dean, Chairman of the Board of
13 Directors of Tennessee Valley Authority. With me here today
14 is my colleague on the board, Director John B. Waters, and our
15 Manager of Nuclear Power, Steven A. White. I would also like
16 to introduce our General Manager, William Willis; our General
17 Counsel, Herbert Sanger, Jr.; and our Inspector General,
18 Norman Zigrossi.

19 We are here today to present the NRC TVA's plan for
20 the proper operation of our nuclear program as we discussed it
21 with the Commission during our meeting on January the 9th.

22 When we last met with you, we told you that we had
23 arranged for the services of retired Admiral Steven A. White
24 to address the management problems in TVA's nuclear program.
25 Since that time Mr. White has taken firm control of TVA's

1 Office of Nuclear Power.

2 Before he came to work for TVA, we agreed with
3 Mr. White that he would have the resources and the authority
4 he needs to correct the problems within TVA's nuclear
5 program. In his first few weeks he has made a good
6 beginning. He has brought in many capable people to help him
7 in his efforts. He has made some changes and he is in the
8 process of making more.

9 The TVA Board's actions in bringing Mr. White to TVA
10 were unprecedented, absolutely unprecedented. However, the
11 Board firmly believes that it did what had to be done to be
12 true to our top priority at TVA, which is the safe operation
13 of these nuclear plants.

14 TVA is committed to that priority. The current
15 shutdown of our nuclear plants today is grim testimony to the
16 need for that commitment. None of TVA's nuclear plants will
17 be operated until the Board is satisfied that each plant can
18 and will be operated safely and in accordance with TVA's
19 standards and commitments.

20 Mr. White is vigorously engaged in the effort to
21 bring TVA's nuclear program up to these standards and to
22 regain confidence in that program. He is prepared to report
23 to you on his efforts. But before he gives his report, I
24 would like to give Director Waters an opportunity to say a few
25 words.

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1 MR. WATERS: Thank you very much.

2 Good morning, Mr. Chairman and members of the
3 Commission. I appreciate the opportunity to again be with you
4 this morning.

5 I want to emphasize to you this morning that in my
6 opinion what we have now at TVA in our nuclear program is more
7 than just a new plan or a new organization. It's a
8 far-reaching reestablishment, restudy of principles,
9 objectives and goals. We think we have been through the
10 entire process. We think that was absolutely necessary. And
11 I want to emphasize to you this morning that I think that's
12 what you are going to hear, an absolutely new approach from
13 TVA's standpoint of view.

14 We think that Admiral White has made a good
15 beginning, and we would hope that all of us will give him an
16 opportunity, which basically what is needed is going to be
17 time to do the work that I am firmly convinced that he and his
18 people that he now has in TVA and will bring into TVA can do.

19 I intend to support him fully, and I hope that this
20 Commission and the public in general will let us earn the
21 confidence that we now, I think, we are able to do in our
22 nuclear system.

23 With your permission now, Mr. White will give you
24 his assessment of our program and what he is doing to bring it
25 back to where it should be, where you know it should be and

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1 where we know it should be.

2 Thank you, sir.

3 MR. WHITE: Commissioners, gentlemen.

4 First of all, I am happy to be here this morning to
5 give you my first report on the situation at TVA as I see it.

6 I have been in the job now, as you know, for about
7 two months, and I think you will all recall that shortly
8 before I took the job, I stopped by to see each of you, and at
9 that time I told you that I felt I could come back within a
10 month, approximately a month, and at that time be able to tell
11 you the major problems as I saw them, and perhaps some
12 outlines of plans of action.

13 I very much appreciated the additional three weeks
14 which, Mr. Chairman, you and the members, the Commissioners,
15 gave me, to get my arms really around our major problem. So
16 what you are going to hear this morning is my view of our
17 major problems, some plans of action that we intend to take,
18 and some of the things that we have already accomplished in
19 this first two months.

20 Let me also say I do not know all of the problems.
21 I do not know all of the problems, nor do I have all the
22 answers.

23 Go to the topic slide.

24 [Slide.]

25 Here are the subjects we will be covering this

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1 morning. As much as possible, I will try to deal from Volume
2 I of our Nuclear Performance Plan, so in that way I hope to
3 minimize the number of questions that you gentlemen and the
4 Staff will have after you receive that plan for review.

5 Facilities. On this slide, really, there are only
6 several things that I'd like you to take off of it. First is
7 that TVA is one of the two largest nuclear organizations in
8 the United States. Please also note that we have both boiling
9 water and pressurized water plants, and that even in the case
10 of the PWRs, they are from different vendors.

11 The other thing I'd like you to take off of this and
12 the following chart is the geographic separation.

13 [Slide.]

14 For example, from my headquarters in Chattanooga,
15 it's a good two hours drive to Knoxville, and from my
16 headquarters on a good day, it's a good three-hour drive to
17 Browns Ferry. This certainly doesn't simplify our management
18 problems. It isn't as if I can walk out the door and into one
19 of the plants.

20 I'd like to also briefly review the plants in terms
21 of their status.

22 Five operational plants, all shut down. Four under
23 construction, with one of those essentially complete and
24 unlicensed.

25 Unfortunately, you will also note that several of

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1 the plants have been shut down over a year or about a year.

2 The specific reasons for the shutdown given on this
3 slide, you will also note, are no longer the reasons that we
4 can't start the plants up. And when you look at those
5 reasons, you should take a little care. They are brief
6 descriptions, but the words may not fully describe the depth
7 of the problems.

8 For example, if you look at Browns Ferry Unit 3, it
9 says reactor vessel water level discrepancies. That in truth
10 was the result of what I consider a series of serious
11 personnel errors.

12 COMMISSIONER ASSELSTINE: In essence, those are all
13 symptoms of much deeper problems?

14 MR. WHITE: Precisely correct.

15 And I think it is also valuable to go back to your
16 concerns from your 3 July 1985 letter, and here in the next
17 few slides is a resume of what you said in that letter.

18 As far as I am concerned, even in retrospect, as I
19 look back over this letter, you did a good job as regulators.
20 These are good calls. These are good calls. And they
21 clearly, to me, show the reasons you were getting after TVA.
22 Particularly if you look at the enforcement history. Just
23 look at that.

24 In retrospect, again, even in retrospect, you as
25 regulators were clearly trying to send us a message with those

1 enforcement actions.

2 [Slide.]

3 Again, on this slide, the descriptive words don't
4 fully describe what perhaps is the seriousness of the
5 situation.

6 For example, the Browns Ferry partial scram in 1980
7 was actually the failure of about one-third of the control
8 rods to insert as they should have, to scram as they should
9 have. So the brief words don't necessarily tell you the
10 significance of the item.

11 [Slide.]

12 Finally, management. This is the gut issue, and
13 that was a good call last July.

14 Subsequent to this letter, you wrote TVA a letter on
15 the 17th of September, and in that letter, which was a legally
16 binding letter, legally binding on TVA, you asked for specific
17 corrective actions.

18 [Slide.]

19 Now let me shift a little into the more recent
20 history.

21 COMMISSIONER BERNTHAL: Admiral White, I think just
22 for the public record, it is worth noting that this July
23 letter was a letter initiated by the NRC Staff, that that was
24 Staff action which I appreciate that you recognize was taken
25 in a timely manner at that time, without any specific prodding

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1 on the part of any member of this Commission. And I believe
2 the Staff deserves some credit for that.

3 MR. WHITE: Well, of course, I didn't note that,
4 Mr. Bernthal, but it is very clear that the work they did --
5 as I say, even in looking at it today, I look at those calls
6 and they're pretty clear-cut, and many of those are the same
7 problems I face today.

8 Now the more recent history. In November 1985, I
9 led a team of nine people from Stone & Webster Engineering
10 Corporation to look at TVA, and the purpose was to see if we
11 could find out perhaps what the problems were, and if there
12 was any way Stone & Webster might be able to help TVA.

13 [Slide.]

14 Now you can see the problems that we identified in
15 that two weeks, and note that they all really refer to
16 management. They all refer to management.

17 The Board, the Directors, of course, knew that we
18 were making that look and asked that I come to Knoxville and
19 brief them personally on those results, which I did, I think,
20 on Christmas Eve or the day before.

21 After I discussed those conclusions and told them
22 what we had found, and they asked a number of very good
23 questions, at the conclusion of that session they said, "Okay,
24 you've been down here and you've pointed out the problems.
25 Now how about coming down as a full-time person to fix those

1 problems."

2 So by the 3rd of January we had in fact come to an
3 agreement. As Chairman Dean has said, unprecedented;
4 unprecedented for TVA. And I know you gentlemen have all seen
5 that MOU, Memorandum of Understanding, and know that it gives
6 very sweeping, very sweeping authority to me, along with the
7 accountability and responsibility to fix the problems.

8 Significantly, it does a number of things, but
9 perhaps the most important is it pledges the Board's support
10 to me in those efforts. And I can honestly tell you from the
11 day that we signed that MOU, I have received only the fullest
12 support from the members of the Board.

13 When there were three, I received it from all three;
14 now with two, I'm still receiving full support.

15 Finally, on the 13th of January, I started work, and
16 I brought with me a handful, a handful of people who had the
17 reputation in the nuclear industry for having looked at and
18 solved problems similar to those at TVA, had looked at those
19 in other utilities.

20 From Basic Energy Technology Associates, I brought
21 Bill Weger, Bob Brodsky and Bill Bass. And all three of those
22 gentlemen have over 30 years experience in both Navy and
23 commercial nuclear power.

24 From Stone & Webster, I brought two senior vice
25 presidents, Mr. Walt Sullivan and Mr. Ed Siskin. and each of

1 those gentlemen has over 25 years experience in the nuclear
2 business.

3 And finally, from General Electric, I brought
4 Mr. Henry Stone. Mr. Stone is the chief engineer for Nuclear
5 General Electric.

6 Now the first thing that we did was to start a
7 categorization of problems.

8 Now you have to understand that in November, in
9 November when I was there with a team of nine people, the
10 results which you have seen were a slice out of a piece of
11 salami. And I looked at that slice and I said, gee, there's
12 some bad spots in it.

13 When you do that, you've got to take some other
14 slices to find out the extent of those problems. So with
15 special teams that we set up, we looked at 800 source
16 documents. We took outside criticisms that had been leveled
17 against TVA by NRC, by INPO, by Congress, by nuclear liability
18 insurance companies, by a vast number of such inputs.

19 And as I said, 800 source documents.

20 We came up with 1300 specific criticisms. 1300.
21 And the timeframe we chose was only the 16 months prior to my
22 arrival.

23 We then put all of those concerns into a computer,
24 and we sorted them in a dozen ways. We categorized them in
25 various fashions. And from that effort, we were able to

1 quickly see not only some of the major problems, some of the
2 symptoms of the problems, and some of the problems that
3 perhaps aren't as major, but we must resolve, and from that
4 could determine which corrective actions we should do first,
5 and what areas we should hit hardest.

6 So what are we doing?

7 [Slide.]

8 Well, first in organization -- and let me first
9 mention, as I go through my brief to you this morning, my
10 report, obviously I am going through it in series. You have
11 to understand that these efforts have been taking place in
12 parallel.

13 [Slide.]

14 The immediate goals were in organization, to correct
15 the organizational deficiencies as fast as possible, and to
16 provide strength in the weak areas of great importance, and
17 you see those are QA, engineering and licensing. Clearly at
18 the top of the list. And those were the critical areas.

19 Now you see "remove non-nuclear matters" --

20 CHAIRMAN PALLADINO: What does that mean? I didn't
21 understand that one.

22 MR. WHITE: Well, by non-nuclear, Mr. Chairman, if
23 you would believe it, you gentlemen would believe it, I'm
24 responsible for the design, the oversight of construction
25 repair of 53 dams, and of contracts with, for example, the

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1 Corps of Engineers in Bonneville to do work for those.

2 You know, I don't mind lying awake at night worrying
3 about my nuclear problems, but I don't intend to lie awake at
4 night worrying about whether a storm in Washington is going to
5 cause a problem on the Bonneville Dam or something is going to
6 happen to the Okefenokee Dam in Georgia. Those are
7 non-nuclear matters which we must get out of my
8 responsibility.

9 MR. DEAN: I might say parenthetically that in the
10 past, say civil engineering had been grouped into one large
11 group, and they did civil engineering work for the nuclear
12 program, as well as all these dam safety matters. So, as he
13 said, efforts are being made just to split that out.

14 CHAIRMAN PALLADINO: All right.

15 MR. WHITE: What I'm saying is I have a lot of dam
16 inspectors.

17 [Laughter.]

18 MR. WHITE: Go to the next slide.

19 [Slide.]

20 This is the organization as it existed about 18
21 months ago. Notice the discontinuity between operations and
22 maintenance, and between those and design.

23 Notice that nuclear, non-nuclear, both engineering
24 and construction, are lumped together. They aren't under the
25 authority of the guy running the plants. A very fragmented

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1 organization, with no single person in charge of nuclear.

2 I might point out at this time that the NRC picked
3 this up and severely criticized TVA for having this type of
4 organization.

5 [Slide.]

6 Here is the way we look today. Let me first mention
7 at the top, I've mentioned the Board of Directors who give me
8 support, and Mr. Bill Willis has been introduced. I would
9 like also to say that the general manager from that first day
10 has given me the utmost cooperation and support.

11 Notice on this chart that we are no longer
12 fragmented. We have simple clean lines, clear lines of
13 responsibility and accountability. We are in the process of
14 reorganizing the non-nuclear. We are in the process of
15 strengthening QA licensing and engineering under this scheme.

16 All the nuclear business is under a single hat. As
17 you look through that, you will see that some of the changes,
18 I have appointed a new Assistant Manager, because I needed
19 that type of help in the headquarters.

20 I also have the Nuclear Safety Review Staff who
21 report directly to me.

22 I might mention, Mr. Chairman, that on the
23 non-nuclear, I might also ask you if you gentlemen would
24 believe that I'm responsible for operating the largest diesel
25 truck engine overhaul facility in the Southeast, and I'm told

1 it's probably the best in the United States. And that's again
2 -- I'm going to get rid of diesel trucks.

3 CHAIRMAN PALLADINO: So you don't have that
4 responsibility now?

5 MR. WHITE: We are transferring it now. It is not
6 complete yet. We started several weeks ago to transfer.
7 It's, as you can imagine, quite a process to separate
8 functions and people into two organizations. But it's well,
9 well into being.

10 Now I'm going to come back to this slide --

11 COMMISSIONER BERNTHAL: Let me ask a dumb question.
12 How does it happen that all came in the package? You were
13 appointed to head the nuclear program. That just was rolled
14 into the nuclear program or -- I don't understand.

15 MR. WHITE: Historically those things had been
16 there. When the Board got me, they said, "Look, you know,
17 you've got a broad charter. Go fix the thing." And part of
18 fixing the thing is getting that out, so that I can -- I only
19 should have to worry about nuclear.

20 MR. DEAN: Commissioner, I might comment, to give
21 you a little historical perspective on that. Until last
22 summer, all of power, engineering, construction -- well, at
23 that point in time they had all been lumped together. We
24 certainly included a lot of things like dam safety and
25 repairing the diesel trucks and that sort of thing. Now the

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1 effort is being made to bring everything nuclear under one
2 umbrella, which is quite proper, but to split out things which
3 have been caught up in that net the first time. And as he
4 points out, quite correctly, it takes a little bit of doing.

5 COMMISSIONER BERNTHAL: But those are
6 responsibilities, I take it, that Mr. Parris brought with me
7 when --

8 MR. DEAN: They were thrust upon him. In other
9 words, the trucks, the diesel trucks he refers to, were used
10 in the power operation. But as Mr. White points out, if he's
11 going to lose sleep, he doesn't want it to be over diesel
12 trucks. Diesel generators, perhaps, but not diesel trucks.

13 MR. WHITE: So we will come back to this slide
14 again, but the importance is, it's under one hat.

15 [Slide.]

16 I am not going to take you or try to take you
17 through a slide which shows how the sites used to be
18 organized, because to be honest with you, that diagram is
19 still confusing to me. But this is the way it is now.
20 Simple, clean, clear lines.

21 COMMISSIONER ROBERTS: This is per site?

22 MR. WHITE: This is each site, that's correct. We
23 are rapidly moving in this direction.

24 Now I should say this is an operational site. The
25 sites under construction would be a little bit different.

1 MR. DEAN: But that's a typical site up there,
2 Mr. Roberts. That's what he means by per site.

3 COMMISSIONER ZECH: Do you have all those people in
4 place?

5 MR. WHITE: Yes.

6 COMMISSIONER ZECH: At this time?

7 MR. WHITE: Yes. At the upper tier, I think there
8 are a couple of exceptions, Mr. Zech, but at the upper tier we
9 have certainly the majority of them. I would guess about 85
10 percent.

11 COMMISSIONER ZECH: Fine.

12 MR. WHITE: Now what this does, this simple diagram,
13 is it -- with regard to engineering, it places the resources
14 and the responsibilities with the site director, while
15 maintaining that strong technical line to the engineers. And
16 that ensures design integrity for the life of the plant, for
17 the life of the plant. A very important point.

18 In addition, the other significant changes that you
19 see up there is that we have consolidated all the QA
20 functions, and I'll discuss that later in more detail. But
21 they are all now under one hat, and you notice he doesn't
22 report to the line, he reports to a manager who reports
23 directly to me. Strong centralized control.

24 In safety and licensing, for the first time, for the
25 first time we have put in place or putting in place. offices

1 of licensing at the sites who will report again to a person
2 who reports directly to me.

3 [Slide.]

4 Now let me go on and talk about people.

5 CHAIRMAN PALLADINO: The Director of Engineering
6 reports to you, not to the site director?

7 MR. WHITE: That is correct. That is correct.

8 CHAIRMAN PALLADINO: And the Director of Safety and
9 Licensing reports --

10 MR. WHITE: Reports directly to me.

11 CHAIRMAN PALLADINO: Why was that, instead of going
12 to the site director? I'm not saying it's wrong, I am just
13 interested in your philosophy.

14 MR. WHITE: Clearly it's a similar case to QA, where
15 there's technical direction, and that has to be centralized.
16 I have to know what's going on. I have to keep it
17 independent, frankly, of the site or the line organization, to
18 maintain independence, to give it strong technical control in
19 all of those areas. I have to have hands-on control of those
20 things.

21 COMMISSIONER ASSELSTINE: While you might have some
22 engineers at the site, you still have a centralized office of
23 nuclear engineering that reports to you?

24 MR. WHITE: Yes, sir. And later on I will get into
25 some details in the engineering area.

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1 COMMISSIONER ZECH: But the site director is
2 allowed, it looks to me like, according to your organization
3 here, to spend his time and his energies focused directly on
4 his site and focusing on operations and maintenance and those
5 kinds of things.

6 MR. WHITE: While having the people there, the
7 resources there --

8 COMMISSIONER ZECH: Right, to do that.

9 MR. WHITE: -- to call on, but under that strong
10 centralized technical --

11 COMMISSIONER ZECH: But having the centralized staff
12 functions report to you, but servicing him, of course, back
13 down the hill.

14 MR. WHITE: That's correct.

15 COMMISSIONER ZECH: All right.

16 CHAIRMAN PALLADINO: Can I ask one more question on
17 this slide? It says Director -- I'll just pick one of these
18 boxes -- Director of Nuclear Engineering. Is there a Director
19 of Nuclear Engineering for this site, or is this Director of
20 Nuclear Engineering for all your centralized --

21 MR. WHITE: That's Director of Nuclear Engineering
22 for all sites.

23 CHAIRMAN PALLADINO: Okay.

24 MR. WHITE: I should have pointed that out. That
25 upper tier all report directly to me.

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1 COMMISSIONER ALBELSTINE: That's really the
2 corporate level?

3 MR. WHITE: That's the corporate level, that's
4 correct.

5 COMMISSIONER ZECH: That's why you want it
6 centralized, so you can make uniform consistent decisions.

7 MR. WHITE: Consistent, uniform, and have them under
8 my control. I must have those things under my control.

9 [Slide.]

10 Okay, now, let's get back to the problem.
11 Leadership. And that's as succinct as I can make it. A lack
12 of leadership and direction.

13 It became evident immediately, immediately in
14 searching those first few weeks, of looking around TVA, that I
15 could not find the level of expertise and experience in the
16 nuclear business within TVA. Immediately went outside of TVA.

17 Now going outside of TVA is difficult for a number
18 of reasons, but let me just go through my difficulty.

19 First of all, it's not easy to get those people.
20 You understand that I'm out looking for people with 25 or 30
21 years experience, with a reputation that backs it up. And
22 those people in industry today are at very senior levels in
23 their companies. Very senior levels. They're the top in the
24 industry. So they're hard to find.

25 When I can find some, they go through an interview

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1 process similar to the one that Admiral Rickover taught me
2 years ago. And of the ones that I interview, I select about
3 one out of five.

4 Now once having obtained these people and selected
5 them, it's not easy to get them to come to work. You go in to
6 a person who's at a high level in industry and you're saying,
7 "Look, leave your job as executive vice president in your
8 company and come to Chattanooga or Knoxville for two years,
9 temporary thing, and work for me in this large problem we're
10 trying to solve." It's not easy.

11 Fortunately in several cases I have a commitment
12 from the top people in the company in some very reputable,
13 creditable companies, a commitment to me to furnish the people
14 I need. And believe me, I'm calling on those chits. And so
15 -- to get the people that I need.

16 So once having found them, selected them, and I have
17 them now coming, let me tell you it is not inexpensive. Those
18 people are not inexpensive, and fortunately the Board
19 understands that and supports it.

20 The very simple truth is that without those people,
21 I nor anyone else can do this job. That's the caliber of
22 people it will take to get this thing righted in a reasonable
23 timeframe.

24 COMMISSIONER BERNTHAL: Can I ask -- it may be
25 premature right now, but I would hope some time today, and it

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1 may be premature today, you would be able to address a
2 question that's troubled me, not to cross bridges before we
3 get there. But I'm concerned about the transition --

4 MR. WHITE: I will cover that.

5 COMMISSIONER BERNTHAL: I have great confidence in
6 your ability to assess the problem, and perhaps through the
7 good graces of pulling chits, as you put it, of some of the
8 people that you know bringing in the personnel that you need
9 to assist in solving the problem today. But as you point out,
10 these people don't come cheap, and I think it's time the
11 Congress understood that they don't come cheap, and I'm
12 concerned what happens two or three years down the road here.

13 MR. WHITE: Well, I am also very concerned, but I
14 later on will tell you the things that I'm trying to do to
15 solve that problem. A very, very valid concern.

16 Now again if I can refer back to what you said
17 earlier, Mr. Asselstine, the problems can vary from place to
18 place, but they all stem from a root cause. And everything
19 else, frankly, we're going to talk about today are symptoms,
20 are merely symptoms of this problem. This is the problem I
21 have to solve.

22 [Slide.]

23 I would like now to take a couple of minutes to
24 introduce the TVA managers, and very briefly, so you will have
25 a sketch of the kind of people we are talking about.

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1 Deputy Manager of Nuclear Power is Mr. Chuck Mason.
2 He has about 22 years experience in nuclear industry, both
3 Navy, Wolf Creek and TVA.

4 Mr. Bill Cottle, the recently-appointed Assistant
5 Manager of Nuclear Power, has 18 years experience in the Navy,
6 at Farley and at TVA.

7 Mr. Kelly, Director of Nuclear QA from Stone &
8 Webster. Mr. Kelly has 27 years experience in the nuclear
9 business, and for the last -- how many years have you been,
10 eight years, Dick, the number one guy -- the last eight years,
11 the number one QA person for the Stone & Webster Corporation.

12 Mr. Bill Drotleff, the Director of Nuclear
13 Engineering, also from Stone & Webster. He has 23 years
14 experience in the nuclear industry, and 17 of those, the last
15 17, have been in design, and he is my new Director of Nuclear
16 Engineering.

17 Mr. Dick Gridley, the Director of Nuclear Licensing
18 and Safety. Dick has 29 years experience in the nuclear
19 business. He's had 10 years experience in licensing, and his
20 last job, the one I took him from, he was the number one GE
21 licensing manager worldwide for operating BWR reactors.

22 Mr. McCullough, the new Director of Nuclear
23 Construction, is not here this morning. He reports in a
24 week. He's coming to me from Bechtel. He has 29 years
25 experience in nuclear construction, and his most recent job

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1 and the one he's now working himself out so he can come to us
2 for two years is he had the oversight for the construction of
3 six units.

4 Bill Bibb from MAC is the site director at Browns
5 Ferry. Mr. Bibb has 30 years experience in the nuclear
6 business, almost all of it with BWRs.

7 Mr. Abercrombie, site director at Sequoyah, has 18
8 years experience nuclear at TVA.

9 Mr. Robertson, my new Director of Nuclear Services,
10 is also not here this morning. He reports in today. We have
11 hired him from Houston Lighting & Power as a TVA employee,
12 which answers, Commissioner Bernthal, one of your questions.
13 I'm trying to do that wherever I can. He has 13 years
14 experience.

15 Mrs. Taylor, the Manager of Nuclear Personnel, has
16 21 years experience in the personnel business.

17 Could you stand up?

18 She also asked me to say that she started working in
19 that business at the age of seven, so she's 28.

20 [Laughter.]

21 For the last seven years, for seven years she has
22 been the personnel person for all of TVA, and that tells you I
23 have stolen the personnel officer for TVA, and she is now
24 working only on nuclear problems for the next two years.

25 Dr. Johnson, Director of Nuclear Training. He has

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1 over 20 years experience in the nuclear business, including
2 nine years at Georgia Tech.

3 And Kermit Whitt, the Director of the Nuclear Safety
4 Review Staff, has had 25 years experience in the nuclear
5 field, in operations, in testing, in regulation.

6 All of these people that I just introduced, with the
7 exceptions of Mr. Abercrombie, Mr. Whitt and Dr. Johnson, are
8 new to their jobs. As of today we have 13 contractor people
9 in various line positions in the organization, and that number
10 will grow as we fix the problem.

11 CHAIRMAN PALLADINO: I must say you've been pretty
12 successful in getting some pretty key people.

13 MR. WHITE: Don't say that too loud, please,
14 Mr. Chairman. You might inadvertently shut off my sources.

15 I promised you earlier we'd get back to this slide.
16 I'd like to now do it, because I'd now like to show you the
17 new organization and superimpose on it the changes that we
18 have made already to give you an idea of what we have been
19 doing.

20 [Slide.]

21 The yellow on that slide indicates the people who
22 are filling these -- only these top slots I'm talking about
23 now, top slots, who are from contractor sources.

24 [Slide.]

25 Overlaid on that is the people who have been new,

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1 who are the new TVA employees. These are people that now work
2 for TVA.

3 [Slide.]

4 And finally, the next overlay shows TVA employees
5 who I have taken from other parts of TVA and placed in that
6 organization. If you look at that -- now, of course, I did
7 not place Inspector General, that's entirely separate and
8 distinct from my organization, but he is new to that job.

9 If you look at that, you get a full appreciation for
10 the management -- I think quite dramatic management -- changes
11 we have made so far.

12 CHAIRMAN PALLADINO: Do you have another copy of
13 that one? I don't seem to have that one.

14 MR. WHITE: Let's have another copy for the
15 Chairman. We should have it.

16 CHAIRMAN PALLADINO: Okay, thank you.

17 MR. WHITE: Now let me talk to this slide again.
18 Perhaps partially in answer again, Commissioner Bernthal, to
19 your question. Under the Director of Nuclear Construction, I
20 actually have two TVA employees. I have told both of those
21 individuals personally, "You are in a position to compete for,
22 to compete for the top position at the end of two years." And
23 they understand that.

24 In the Nuclear Engineering organization, I have
25 three, three TVA employees, and I have spoken to each of those

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1 three and said, "You three must compete for that top job." So
2 I hope that in two years, in some areas -- and Lord knows,
3 wherever I can -- but in some areas we not only want somebody
4 that we think has the potential, I'd like to have some
5 selectivity at the end of the two years. So we are trying to
6 do that wherever we can.

7 You will notice on the other hand -- I'll give you
8 the down side with the up side -- I have no one yet in QA that
9 I can put as a TVA employee there, and we are looking very,
10 very hard to find a person such as that.

11 In the case of Browns Ferry, by the way -- and --
12 that's the only site that has a Deputy Director right now --
13 Browns Ferry, Mr. Walker, who is now a TVA employee, he came
14 -- he was one of the people that Bechtel sent to me for
15 interview as a contractor guy to come to work for TVA. We
16 convinced him, quit Bechtel and go to work for TVA. So now he
17 is -- and I apologize, of course, to the corporation for doing
18 that. But he is now a key --

19 COMMISSIONER BERNTHAL: I wouldn't apologize. They
20 can probably take care of themselves.

21 [Laughter.]

22 MR. WHITE: I said that obviously in jest. But he
23 now is a Deputy Director, and certainly has the potential of
24 taking over from Mr. Bibb, the contractor fellow from MAC,
25 from taking that over in this two-year period.

1 So it's hard, it's very difficult, as you indicated,
2 and I agree with you, Commissioner Bernthal, it is difficult.
3 We have had some success and we will continue to push for
4 that.

5 [Slide.]

6 Now let me shift here slightly and say, you know,
7 when you change people and you change an organization, it
8 doesn't do you any good at all, in my opinion, unless you can
9 assign responsibility and accountability. So we have set up a
10 team of people to rewrite all the position descriptions. And
11 by that I mean from my own position description to the lowest
12 management level in Nuclear, the people called M-1s, the very
13 lowest level.

14 We have to eliminate duplication, and we have to
15 cover the missing functions. And if I can have another aside,
16 I would tell you that when I reported, one of the first things
17 that I found out when I looked around and saw some problems, I
18 said, "I'd like to talk to the person accountable, the
19 responsible guy for that." You know what I got? Everybody
20 was responsible, and therefore no one was responsible.

21 I'm afraid we had too much responsibility by
22 committee. And I guess another lesson that I learned years
23 ago from Admiral Rickover was when something goes wrong, if
24 you can't point to the person, the individual responsible,
25 you've never had anybody responsible. And I happen to firmly

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32 168

1 believe in that.

2 So the key points on this slide are we are going to
3 assign responsibility. I am going to measure performance, and
4 I am going to hold people accountable after those position
5 descriptions are in place. I expect that in the next few
6 months.

7 CHAIRMAN PALLADINO: I also presume you are given
8 the authority to do the assigned responsibility, to carry it
9 out?

10 MR. WHITE: I have very sweeping -- oh, you mean
11 whether I delegate to them? Or whether I have --

12 CHAIRMAN PALLADINO: The question always comes about
13 when you have a job, do you have the authority to carry it all
14 out.

15 MR. WHITE: I have perhaps a personal view of
16 authority and responsibility, and although I believe that you
17 can delegate responsibility, I also believe that merely the
18 fact of delegating it does not absolve you from
19 responsibility, so even though I'm going to delegate that, as
20 far as I'm concerned, I retain the responsibility.

21 CHAIRMAN PALLADINO: But still I am concerned -- and
22 you didn't satisfy me yet --

23 MR. WHITE: Okay.

24 CHAIRMAN PALLADINO: Does the individual that has a
25 position not only have the responsibility, but he has enough

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1 authority to carry it out? The authority that is associated
2 with his carrying out those responsibilities?

3 MR. WHITE: Clearly he must have not only authority,
4 I have to give him the tools. You can't hold an individual
5 responsible without giving him the resources to do this, which
6 has been one of our problems.

7 CHAIRMAN PALLADINO: Did you answer my question on
8 the authority?

9 MR. WHITE: Yes, yes, I said that they do have that,
10 yes.

11 Now this kind of thing, a complete rewrite of --
12 position description, has been done in industry before, in the
13 nuclear industry. I'm sure you all know that. But I have had
14 33 years of association with civil service types of
15 organizations, and TVA is a civil service type of
16 organization. And in that 33 years, I know of no single
17 undertaking of this magnitude ever done.

18 Now you may find one, but I certainly have never
19 seen one. So I would say this is kind of unprecedented, and
20 certainly it is a mammoth, mammoth undertaking. And I have
21 set a goal, which I hope we can achieve. As I say, I want to
22 have essentially all that complete in the next four months.

23 COMMISSIONER ASSELSTINE: How many positions are
24 involved in this effort?

25 MR. WHITE: We have about 1,000

1 COMMISSIONER ASSELSTINE: Okay.

2 [Slide.]

3 MR. WHITE: Now let me say that once, once you --

4 COMMISSIONER BERNTHAL: One other statistic, I'm
5 sorry, you said that you were categorizing management
6 positions down to M-1. How many management positions then do
7 you define M-1 and above? How many people are in that
8 management category?

9 MR. WHITE: Well, that's about 1700, is it not?

10 COMMISSIONER BERNTHAL: Oh, those are only
11 management, so-called M-1s and above?

12 COMMISSIONER ASSELSTINE: Those are managers.

13 MR. WHITE: All managers, that's correct.

14 CHAIRMAN PALLADINO: It's a very significant
15 undertaking, and I commend you for it.

16 MR. WHITE: Oh, it is. But I have to do it. I must
17 do it. If I'm going to hold anybody accountable in the
18 organization.

19 MR. DEAN: You understand these are TVA's levels of
20 managers. The general managers, the M-13s, and it's very
21 similar to the civil service type of classifications.

22 MR. WHITE: And I hope my voice is going to hold,
23 and please excuse the throat.

24 Now let me continue by saying after you have
25 organized, reorganized, and after you have put the people in

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1 place, and after you have defined responsibility and
2 accountability, you aren't there yet. You've got to continue,
3 and you must have a system so that you can establish policies,
4 that the practice will follow those policies, and that the
5 procedures will reflect the actual practices. And that's what
6 this slide tells you.

7 In the second bullet we have hired a person who has
8 rewritten procedures for a number of other nuclear utilities
9 who have been in similar trouble, and she starts to work this
10 week with a team of people to review and rewrite procedures,
11 our hierarchy procedures.

12 Management information system. They had four
13 management information systems. We are working down. Pretty
14 soon we will have one.

15 In the corporate commitment tracking system, it's a
16 crazy situation. We had over a dozen systems. You know,
17 almost literally, everybody had their own little tracking
18 system. And what we are doing is, we are almost down to the
19 point where we will have one tracking system, which is
20 obviously the way it should be.

21 [Slide.]

22 Now you cannot run an organization, particularly one
23 of this size, unless you have sources of information. You've
24 got to have sources of information. You've got to have the
25 truth, you've got to have the facts, the unvarnished facts,

1 the unbiased facts, you have to have assurance that the
2 problems are being raised to your level.

3 Now in turn I have a responsibility to the Board of
4 Directors to report to them and keep them informed. So the
5 top of this slide shows those methods, the monthly briefings
6 and the average -- the slide says twice, I'm sure the average
7 is more than that. Chairman Dears says it seems to him it's
8 daily. But I would tell you if you asked the Board, they
9 would tell you that in the two months I've been there, I have
10 not hesitated at all to report to them my problems and where I
11 needed their support. And, of course, they have a lot of
12 other sources -- the Office of Inspector General.

13 They were also present, for example, a couple of
14 weeks ago, within the last two weeks, at an INPO exit brief
15 after an inspection of Browns Ferry. So they are also
16 involved in getting direct information.

17 Now how do I get my information?

18 Daily contact with key management. That's one way.

19 Site representatives is another. In two of the
20 sites I have already placed representatives who are not part
21 of the line management. Those people report directly to me,
22 and so I have another source of information, because I also
23 learned a long time ago never to depend on one source of
24 information.

25 And again, I guess from Admiral Rickover, you've got

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1 to know what the heck's going on all the time. You've got to
2 know that.

3 The other means, obviously, are my personal looks.
4 And when I first took over, by the way, the first few weeks, I
5 talked to about nine to ten thousand employees at the various
6 locations, so I could tell them what they could expect from
7 me, and the major things that we were going to accomplish.

8 In addition to that, in visiting through the
9 organizations, I have literally on a one on one, or one on two
10 or one on three basis talked to hundreds, perhaps as many as a
11 thousand, employees. And let me tell you, that's a good
12 source of information.

13 You know, in 33 years in the Navy, I never knew a
14 commanding officer worth his salt who didn't walk his ship.
15 TVA is not a ship, but we're going to walk the ship.

16 Now having set that pattern, I require my people to
17 do that. I require my managers, the site directors, for
18 example, walk their ship, walk their spaces. They in turn
19 require their subordinates to walk. And how do I know that's
20 going on? Because I require each of them to report to me once
21 a week on who's been doing what, how many have been doing it,
22 what have they been finding, and if I get too many good
23 reports, I say, "Okay, let me have the bad ones," because I
24 know buried in there, there are some bad signs. What problems
25 have you found? What did you do about it?

1 So those are certainly some of my multiple sources.

2 And obviously most of these reports are made orally to me,
3 directly. They don't go to some middleman. Orally to me,
4 directly.

5 And, of course, in addition, I have groups such as
6 NSRS reporting directly to me. So I have formal means of
7 communication and many forms of informal communication.

8 [Slide.]

9 Let me very briefly on this slide recap the areas we
10 have covered.

11 We have centralized control.

12 We have installed good experienced people at the
13 top.

14 We are beefing up weak areas.

15 We are precisely defining responsibility and
16 accountability, and have established sources of information.

17 [Slide.]

18 Employee concerns.

19 This is the single biggest symptom, in my view, the
20 biggest single symptom of the management problems that TVA has
21 had.

22 [Slide.]

23 So we are on a common ground, as I talk about
24 these. We divide them into two categories, called the Watts
25 Bar Special Program and the new TVA Employee Concern Program.

1 [Slide.]

2 Let me first go through the Watts Bar Program, which
3 you see on this slide. As you know, that's the one in which
4 we hired a contractor, QTC, to interview everyone associated
5 with the Watts Bar Project. And let me point out, something
6 like this has never been done before, I don't believe,
7 anywhere.

8 We also paid QTC to investigate those concerns as
9 directed by TVA.

10 In Phase 1 that you see there, that is now
11 completed, and we are in Phase 2, which is let's get at the
12 root causes and let's do something about it.

13 [Slide.]

14 Here is kind of the status of where we stand.
15 Notice that less than 25 percent of those concerns have been
16 resolved. Less than 25 percent. And these are concerns that
17 started early last year.

18 Please also note that some concerns are
19 double-counted. For example, if I had a concern in welding
20 and it also involved harassment and intimidation, that's two
21 concerns, not one, and it goes into two piles.

22 CHAIRMAN PALLADINO: Now how are you resolving
23 these?

24 MR. WHITE: Well, I'm going to get to that in a
25 short bit here.

1 [Slide.]

2 Now NRC came down in October and looked at that
3 Watts Bar program, and here is what you said about it. You
4 said, you know, you recognized progress was extremely slow.
5 You found many deficiencies in the program, and in general
6 these are the things you said. You said, you know, you guys
7 are solving these case by case. Why don't you do it
8 efficiently and group them?

9 I think those suggestions, particularly, were very
10 good. Particularly those suggestions.

11 Next slide.

12 [Slide.]

13 If I am going too fast, I hope that you won't
14 hesitate.

15 So as I said, quit dragging our feet and let's get
16 on with the resolution, and let me tell you, I don't want to
17 diminish the size of this problem, because there is a lot of
18 work to be done, a lot of work to be done. But by grouping
19 them, we are going to come to the end and get satisfactory
20 resolution faster.

21 So again, your suggestion was good.

22 Using this means, we would expect to formally and
23 objectively and with the right technical talent resolve the
24 problems.

25 [Slide.]

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